

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10106JLT

ZHANNA CHIZHIK,
Administratrix of the Estate
of Grigory Chizhik,
Plaintiff

v.

SEA HUNT BOATS, INC.,
TROPICLAND MARINE
AND TACKLE, INC., and
GREGORY ZILBERMAN,
Defendants.

**DEFENDANT SEA HUNT BOATS, INC.'S MOTION TO STRIKE
THE PLAINTIFF'S EXPERT WITNESS DISCLOSURES**

The Defendant Sea Hunt Boats, Inc. hereby respectfully moves the Court to strike the Plaintiff's Expert Witness Disclosures. As grounds therefore, the Defendant states that the Plaintiff's disclosure of expert witnesses is untimely under the operative discovery deadlines. Specifically, the Defendant states as follows:

1. Under the initial discovery order [Docket #14], the Plaintiff's expert witness disclosures were due on March 7, 2005.
2. The Plaintiff's deadline for disclosing expert witnesses was extended until May 6, 2005 when the Court approved an assented to motion [Docket #42] to extend discovery deadlines by sixty (60) days. In allowing said motion, the court notified all parties that "*no further extensions will be granted.*"

3. The Plaintiff failed to disclose her expert witnesses on or before the May 6, 2005 deadline.
4. On May 6, 2005, the Plaintiff filed an Assented to Motion for Extension of Time until June 3, 2005 to Disclose Plaintiff's Expert Witnesses [Docket #46]. As grounds therefore, the Plaintiff stated that her products liability expert, Dr. Kenneth Fisher, had to examine the product in question, a Navigator 22, which the Plaintiff had only recently obtained. Further, the Plaintiff stated that she could not obtain a report from Dr. Fisher until after May 6, 2005 because of he was on vacation until May 13, 2005. No reason was given in the Plaintiff's Motion as to why she could not have disclosed her damages expert, Dr. Dana C. Hewins, Ph.D.
5. The Court denied the Plaintiff's motion by Order dated May 10, 2005.
6. The following day, on May 11, 2005, the Plaintiff filed an "emergency" motion for reconsideration [Docket #47] seeking an extension of time to disclose her expert witnesses. As of this date, the Court has not rule on this motion.
7. On June 3, 2005, the Plaintiff filed her Expert Witness Designations [Docket #48] in which she identified Dr. Kenneth Fisher and Dr. Dana C. Hewins, Ph.D., an economist.
8. The Court should strike the Plaintiff's Expert Witness Disclosure as untimely because it was filed a month after the deadline for making such disclosure. The Plaintiff's delay in making her expert witness disclosure works substantial prejudice on the Defendant because it only has until June 14, 2004 to depose the Plaintiff's experts, a substantial task, especially in light of the anticipated scheduling

difficulties. Even assuming the Defendant can complete these depositions by June 14, 2005, it is left with a mere three (3) days to ensure that its experts can adequately address the opinions expressed by the Plaintiff's experts. The Defendant cannot perform these tasks in the time remaining under the discovery order and it should not have to since the present difficulties were occasioned by the Plaintiff's failure to timely disclose her expert witnesses under the operative discovery deadlines.

WHEREFORE, Defendant Sea Hunt Boats, Inc. respectfully requests that the Court strike the Plaintiff's Expert Witness Disclosures.

The Defendant,
SEA HUNT BOATS, INC.
By Its attorneys,

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CERTIFICATION OF SERVICE

The undersigned attorney hereby certifies that on this 10th day of June 2005, she served a copy of the foregoing document, via first class mail, upon the following

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